IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BENEFICIAL INNOVATIONS, INC., Plaintiff, v. BLOCKDOT, INC., CAREERBUILDER, LLC., CNET NETWORKS, INC., DIGG, INC., EBAUM'S WORLD, INC., JABEZ NETWORKS, INC., THE NEW YORK TIMES CO., WASHINGTONPOST.NEWSWEEK INTERACTIVE COMPANY, LLC, THE WEATHER CHANNEL INTERACTIVE, INC., Defendants.	CIVIL ACTION NO. 2:07-CV-263 (TJW/CE) Jury Trial Demand

JABEZ NETWORKS, INC.'S ORIGINAL ANSWER AND COUNTERCLAIMS TO PLAINTIFF'S SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Defendant and Counterclaim-Plaintiff Jabez Networks, Inc. ("Jabez"), by and through undersigned counsel, hereby provides its Answer, Affirmative Defenses and Counterclaims in response to the Second Amended Complaint for Patent Infringement ("Complaint") of Plaintiff Beneficial Innovations, Inc. ("Beneficial"). Jabez further states that anything in Beneficial's Complaint that is not expressly admitted is hereby denied.

INTRODUCTION

1. Jabez admits that U.S. Patent No. 6,712,702 ("the '702 patent") is titled "Method and System for Playing Games on a Network" and that U.S. Patent No. 6,183,366 ("the '366 patent") is titled "Network Gaming System." Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegation of ownership of the '702 patent and the '366 patent and therefore denies such allegations. Jabez denies that it (a) has used

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and continues to use Plaintiff's patented technology in products that it makes, uses, imports, sells, and offers to sell, and (b) has contributed to or induced, and continues to contribute to or induce, others to infringe either the '702 patent or the '366 patent. Jabez further denies that that Beneficial is entitled to any relief, whether in the form of damages or an injunction, from Jabez. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

JURISDICTION AND VENUE

2. Admitted.

3. Jabez denies that it has committed acts and continues to commit acts within this judicial district giving rise to the allegations contained in this action. Jabez admits venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1400. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

PLAINTIFF BENEFICIAL INNOVATIONS

4. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations contained in paragraph 4 and therefore denies such allegations.

DEFENDANTS

5. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations contained in paragraph 5 and therefore denies such allegations.

6. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations contained in paragraph 6 and therefore denies such allegations.

7. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations contained in paragraph 7 and therefore denies such allegations.

8. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations contained in paragraph 8 and therefore denies such allegations.

9. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations contained in paragraph 9 and therefore denies such allegations.

10. Admitted.

11. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations contained in paragraph 11 and therefore denies such allegations.

12. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations contained in paragraph 12 and therefore denies such allegations.

13. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations contained in paragraph 13 and therefore denies such allegations.

FIRST CLAIM FOR PATENT INFRINGEMENT
(ALLEGED INFRINGEMENT OF THE '702 PATENT)

14. Jabez incorporates by reference each of its responses in paragraphs 1-13 above and further alleges as follows:

15. Jabez admits that the United States Patent and Trademark Office issued the '702 patent on March 30, 2004 and that what purports to be a copy of the text of the '702 patent is attached as Exhibit A to the Complaint. Jabez denies any implication in Beneficial's allegation regarding the validity of the '702 patent. Jabez is without knowledge or information sufficient to form a belief as to the truth of the remainder of Beneficial's allegations contained in paragraph 15 and therefore denies such allegations.

16. Jabez denies each of the allegations contained in paragraph 16 that Beneficial directed at Jabez. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

17. Jabez denies each of the allegations contained in paragraph 17 that Beneficial directed at Jabez. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

18. Jabez denies that it has willfully infringed one or more claims of the '702 patent. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

19. Jabez denies that Beneficial is entitled to recover damages from Jabez. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

20. Jabez admits that Beneficial has demanded a trial by jury.

SECOND CLAIM FOR PATENT INFRINGEMENT
(ALLEGED INFRINGEMENT OF THE '366 PATENT)

21. Jabez incorporates by reference each of its responses in paragraphs 1-20 above and further alleges as follows:

22. Jabez admits that the United States Patent and Trademark Office issued the '366 patent on February 6, 2001 and that what purports to be a copy of the text of the '366 patent is attached as Exhibit B to the Complaint. Jabez denies any implication in Beneficial's allegation regarding the validity of the '366 patent. Jabez is without knowledge or information sufficient to form a belief as to the truth of the remainder of Beneficial's allegations contained in paragraph 22 and therefore denies such allegations.

23. Jabez denies each of the allegations contained in paragraph 23 that Beneficial directed at Jabez. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

24. Jabez denies each of the allegations contained in paragraph 24 that Beneficial directed at Jabez. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

25. Jabez denies that it has willfully infringed one or more claims of the '702 patent, and to the extent alleged, the '366 patent. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

26. Jabez denies that Beneficial is entitled to recover damages from Jabez. Jabez is without knowledge or information sufficient to form a belief as to the truth of Beneficial's allegations directed at the other defendants and therefore denies such allegations.

27. Jabez admits that Beneficial has demanded a trial by jury.

RESPONSE TO BENEFICIAL'S PRAYER FOR RELIEF

28. Jabez denies that Beneficial is entitled to be awarded any relief sought in its prayer for relief against Jabez, its officers, directors, employees, agents, and all persons in active concert with them. Jabez has not infringed, contributorily and/or by inducement, literally and/or by the doctrine of equivalents, willfully and/or otherwise the '702 and '366 patents. Beneficial is neither entitled to recover damages, including treble damages, nor attorney's fees, costs, and/or pre-judgment interest from Jabez. At least as to Jabez, Beneficial's prayer should, therefore, be denied in its entirety and with prejudice, and Beneficial should take nothing therefor. Jabez asks that judgment be entered for Jabez and that this action be found to be an exceptional case entitling Jabez to be awarded attorney's fees, together with such other and further relief the Court deems appropriate.

AFFIRMATIVE DEFENSES

As and for its affirmative defenses, Jabez alleges as follows:

FIRST AFFIRMATIVE DEFENSE – FAILURE TO STATE A CLAIM

29. The Complaint fails to state a claim upon which relief can be granted because Jabez has not performed any act and is not proposing to perform any act in violation of any rights validly owned by Beneficial.

SECOND AFFIRMATIVE DEFENSE – NONINFRINGEMENT

30. Jabez does not infringe and has not infringed, either directly, indirectly, contributorily, or by inducement, the ’702 and/or ’366 patent, either literally or under the doctrine of equivalents, willfully or otherwise.

THIRD AFFIRMATIVE DEFENSE – PATENT INVALIDITY

31. Beneficial’s purported claims for infringement of the ’702 and ’366 patents are barred because the ’702 and ’366 patents are invalid for failure to comply with the requirements of Title 35, United States Code, including, but not limited to, Sections 102, 103, and/or 112.

FOURTH AFFIRMATIVE DEFENSE – LACHES

32. Beneficial’s claims for relief are barred in whole or in part by the equitable doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE – EQUITABLE ESTOPPEL

33. Beneficial is equitably estopped from pursuing its allegations based upon the ’702 and/or the ’366 patents.

SIXTH AFFIRMATIVE DEFENSE – PROSECUTION HISTORY ESTOPPEL

34. Beneficial is estopped from construing the claims of the ‘’702 and/or the ’366 patents in such a way as to cover any of Jabez’s products or processes by reasons of statements to the United States Patent and Trademark Office during prosecution of the applications that led to issuance of the ’702 and ’366 patents.

COUNTERCLAIMS

Defendant and Counterclaim-Plaintiff, Jabez Networks, Inc. pleads the following counterclaims against Plaintiff and Counterclaim-Defendant Beneficial Innovations, Inc.

THE PARTIES

35. Jabez is a corporation organized and existing under the laws of Tennessee, having its principal place of business in Brentwood, Tennessee.

36. Beneficial claims to be a corporation existing under and by virtue of the laws of the State of Nevada.

JURISDICTION AND VENUE

35. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action concerns a federal question relating to patents arising under Title 35 of the United States Code, and pursuant to 28 U.S.C. §§ 2201 and 2202 because this is a civil action for declaratory judgment.

36. This Court has personal jurisdiction over Beneficial by virtue of its having submitted to the jurisdiction of this Court by filing the underlying lawsuit.

37. Venue is proper under 28 U.S.C. §§ 1391 and 1400.

COUNT ONE -- U.S. PATENT NO. 712,702

38. Jabez incorporates by reference each of the allegations in paragraphs 1-43 above and further alleges as follows:

39. Beneficial claims to be the owner by assignment of U.S. Patent No. 712,702 ("the '702 patent"), entitled "Method and System for Playing Games on a Network."

40. Beneficial further claims that Jabez infringes, contributes to the infringement, and induces others to infringe the '702 patent.

41. Jabez denies that it infringes and that it has infringed, either directly, indirectly, contributorily, or by inducement, the '702 patent, either literally or under the doctrine of equivalents, willfully or otherwise.

42. Jabez further asserts that the '702 patent is invalid for failure to comply with the requirements of Title 35, United States Code, including, but not limited to, Sections 102, 103, and/or 112.

43. As a result of Beneficial's allegations and Jabez's responses to Beneficial's allegations, an actual and immediate justiciable controversy exists between the parties for which declaratory relief is appropriate.

44. Jabez is entitled to judgment from this Court that the '702 patent is not infringed by Jabez and that the '702 patent is invalid.

45. This is an exceptional case entitling Jabez to an award of its attorney's fees incurred in connection with this action pursuant to 35 U.S.C. § 285.

COUNT TWO -- U.S. PATENT NO. 6,183,366

46. Jabez incorporates by reference each of the allegations in paragraphs 1-45 above and further alleges as follows:

47. Beneficial claims to be the owner by assignment of U.S. Patent No. 6,183,366 ("the '366 patent") entitled "Network Gaming System."

48. Beneficial further claims that Jabez infringes, contributes to the infringement, and induces others to infringe the '366 patent.

49. Jabez denies that it infringes and that it has infringed, either directly, indirectly, contributorily, or by inducement, the '366 patent, either literally or under the doctrine of equivalents, willfully or otherwise.

50. Jabez further asserts that the '366 patent is invalid for failure to comply with the requirements of Title 35, United States Code, including, but not limited to, Sections 102, 103, and/or 112.

51. As a result of Beneficial's allegations and Jabez's responses to Beneficial's allegations, an actual and immediate justiciable controversy exists between the parties for which declaratory relief is appropriate.

52. Jabez is entitled to judgment from this Court that the '366 patent is not infringed by Jabez and that the '366 patent is invalid.

53. This is an exceptional case entitling Jabez to an award of its attorney's fees incurred in connection with this action pursuant to 35 U.S.C. § 285.

JURY DEMAND

54. Jabez demands a trial by jury on all issues so triable.

RELIEF

WHEREFORE, Jabez seeks the following relief:

A. A declaration that it does not infringe and that it has not infringed, either directly, indirectly, contributorily, or by inducement, the '702 patent, either literally or under the doctrine of equivalents, willfully or otherwise;

B. A declaration that it does not infringe and that it has not infringed, either directly, indirectly, contributorily, or by inducement, the ’366 patent, either literally or under the doctrine of equivalents, willfully or otherwise;

C. A declaration that the ’702 patent is invalid;

D. A declaration that the ’366 patent is invalid;

E. A declaration that Beneficial take nothing by its Complaint and that Beneficial’s Complaint be dismissed with prejudice;

F. A declaration that pursuant to 35 U.S.C. § 285 this is an exceptional case and that Jabez be awarded its attorney’s fees incurred in connection with this action;

G. Jabez be awarded its costs of suit incurred herewith; and

H. Jabez be granted such other and additional relief as this Court deems just and proper.

DATE: September 25, 2007

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT
JABEZ NETWORKS, INC.

CERTIFICATE OF SERVICE

I certify that the foregoing document was filed electronically on September 25, 2007 pursuant to Local Rule CV-5(a) and has been served on all counsel who have consented to electronic service. Any other counsel of record will be served by first class U.S. mail on this same date.

/s/ Steven M. Geiszler
Steven M. Geiszler

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